

Regular Meeting of November 9, 2004
Twin Pines Senior and Community Center

CALL TO ORDER - 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Warden, Feierbach, Mathewson, Bauer, Metropulos

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Rich, City Attorney Savaree, Community Development Director Ewing, City Clerk Cook.

SPECIAL PRESENTATIONS

Proclamation recognizing "America Recycles Day, November 15, 2004"

Mayor Metropulos read the proclamation which was presented as a reminder that recycling saves precious energy, conserves valuable natural resources, protects the environment, reduces landfill needs and has a positive economic impact.

Michelle Reid, Central Elementary School parent, stated that Central School's national award winning "Getting Green at Central" poster was featured on SamTrans busses. She noted that Belmont Schools were participating in an aluminum-recycling contest, and that collection barrels were available at various places in town. She noted that recycling receipts could also be used toward the contest.

Mayor Metropulos thanked City Engineer Phalen for her role as Belmont's representative to the South Bay Waste Management Authority, and her assistance with recycling efforts throughout the City.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Kathleen Rehm, Semeria Avenue, stated that a number of years ago she became caregiver to her elderly parents. She thanked the South County Fire Authority staff for their compassionate care during the numerous emergency medical service calls for her parents. She presented a letter of thanks from her family (on file in Clerk's office).

Mayor Metropulos thanked Ms. Rehm for her comments, and stated that he would personally call the Authority to forward her message to the staff.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Metropulos announced that a cleanup of the open space area in the Hidden Valley region at the end of Carlmont Drive would take place on November 13, 2004. He also announced that the Friends of the Belmont Library would be hosting an Author Signing on December 12, 2004, at 2:00 p.m. at the Senior and Community Center. Featured author will be former Belmont resident John Christgau.

AGENDA AMENDMENTS

Councilmember Mathewson requested the removal of items 4-D (Resolution for the Authorization to Apply for Federal Surface Transportation Program Funds Administered by the Metropolitan Transportation Commission in the Amount of \$134,000 for Old County Road Pavement Rehabilitation between the San Mateo County Limits and Ralston Avenue) and 4-E (Resolution Granting a Hauling Permit for 1519 Ridge Road in Vehicles Exceeding the Maximum Gross Weight Allowed by the City Ordinance) from the Consent Calendar for separate consideration.

CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of October 12, 2004.

Acceptance of Written Communications: 1) Before the PUC, Annual Report in Compliance with General Order No. 166, R96-11-004, dated October 14, 2004

Approval of Resolution 9607 Approving a Permanent Encroachment Agreement for Construction of a Retaining Wall within the Public Right-of-Way at 2719 Monserat Avenue

Approval of Ordinance 1002 Amending Chapter 7, Belmont Municipal Code, Article XI, Property Maintenance and Abatement of Property Nuisances, Sections 7-401:7-500 (second reading and adoption).

Approval of Resolution 9608 for Accepting Anonymous Complaints to Report Code Enforcement Violations as Permanent Policy for the City of Belmont.

ACTION: On a motion by Councilmember Bauer, seconded by Councilmember Feierbach, the Consent Agenda, as amended, was unanimously approved by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution for the Authorization to Apply for Federal Surface Transportation Program Funds Administered by the Metropolitan Transportation Commission in the Amount of \$134,000 for Old County Road Pavement Rehabilitation between the San Mateo County Limits and Ralston Avenue

Councilmember Mathewson stated that he was in favor of this Resolution, but was seeking an update regarding the schedule for the utility undergrounding project on Old County Road. City Engineer Phalen responded that PG&E has assured staff that the design phase is on schedule, and this schedule was taken into consideration when seeking these funds during the current fiscal year.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Warden, Resolution 9609 for the Authorization to Apply for Federal Surface Transportation Program Funds Administered by the Metropolitan Transportation Commission in the Amount of \$134,000 for Old County Road Pavement Rehabilitation between the San Mateo County Limits and Ralston Avenue was unanimously approved by a show of hands.

Resolution Granting a Hauling Permit for 1519 Ridge Road in Vehicles Exceeding the Maximum Gross Weight Allowed by the City Ordinance

Councilmember Mathewson stated his concern regarding the use of large, heavy trucks on small roads, and that bigger fees should be imposed. He noted that Council often receives complaints about the condition of our streets. In response to his question regarding enforcement

of roll-off bins at construction sites, City Engineer Phalen responded that the existing fee should cover some enforcement. She noted that streets can accommodate the loads, but the life of the road will be shortened.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Feierbach, Resolution 9610 Granting a Hauling Permit for 1519 Ridge Road in Vehicles Exceeding the Maximum Gross Weight Allowed by the City Ordinance was unanimously approved by a show of hands.

HEARINGS

Ordinance Repealing Ordinance 932 Establishing An Arts Commission Codified As Belmont Municipal Code Chapter 2, Administration, Article X, Arts Commission, Sections 2-180 Through 2-186 And Chapter 5.5, Arts, Article I, In General, Article II, Commission, Sections 5.5-1 Through 5.5-28

City Attorney Savaree stated that this Public Hearing set in motion the action required to dissolve the Arts Commission, as previously directed by the Council. She noted that a final meeting was scheduled with the Arts Commission to discuss the possible transition to an independent arts organization, but the meeting was canceled due to the lack of a quorum.

Mayor Metropulos opened the Public Hearing.

Judie Davis, Chair, Arts Commission, expressed her disappointment on the dissolution of the Commission. She noted that the Commission supported all forms of art at little cost to the City, and it was willing to take on the staff duties in order to continue operating as a Commission. She also noted that the Commission did not support the Alliance concept.

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Warden, the Public Hearing was unanimously closed by a show of hands.

Councilmember Feierbach stated that she agreed with comments made at the previous Council meeting that the Commission should be dissolved.

Councilmember Bauer stated that the Arts Commission enriches the community, and he was not in support of dissolution.

Mayor Metropulos stated that he was disappointed the Council needed to take this action. He noted that he supported the Alliance concept, but recognized the Commission's desire not to pursue.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Feierbach, and approved by a roll call vote of 4-1 (Bauer, no), to introduce an ordinance by title Repealing Ordinance 932 Establishing An Arts Commission Codified As Belmont Municipal Code Chapter 2, Administration, Article X, Arts Commission, Sections 2-180 through 2-186 And Chapter 5.5, Arts, Article I, In General, Article II, Commission, Sections 5.5-1 through 5.5-28, further reading waived, and second reading and adoption set for November 23, 2004.

NEW BUSINESS

Preliminary Design Review - 600 Clipper Drive

Community Development Director Ewing stated that Grosvenor, USA's proposal for this 18.5-acre parcel would require a zoning amendment from commercial to residential. He noted that the focus of this preliminary review was to discuss the zoning change, density, and aesthetics. He clarified that staff had not made an analysis of the proposal, no EIR had been prepared, and no community outreach had transpired.

In response to Council questions, Community Development Director Ewing clarified that in general, residential development does not pay its way, but costs the City money. He noted that higher density residential development would generate a higher amount of property tax. He also clarified that the potential impact on existing wetlands would need to be addressed, as would the affect on the enrollment of Sandpiper School, which is already over-crowded.

In response to Councilmember Feierbach's questions regarding future revenues, Finance Director Fil clarified that this parcel was within the boundaries of the Redevelopment Agency, and although no detailed calculations had been made, any new tax increment would be shared among the County, RDA, and schools. He noted that a change to residential use would result in the loss of sales tax, and there could be an increase in the need for police and fire services. He stated that the developers could prepare an analysis to outline financial impacts at various density levels.

Walt Preston, Grosvenor USA Limited, gave a brief overview of the acquisition of the property. He noted that their proposal represents a drastic change in use of this property, and that the height of the residential development would be lower than the existing building. He clarified that the previous research and development use did not generate revenue, and that the building had been vacant for some time. He described the options explored, and stated that Grosvenor has aggressively attempted to lease the property. Due to the economy, location, and logistics, the site was not well suited to the biotech industry. He also noted that access, visibility, and the lack of critical mass is problematic for retail use, and that existing hotels were struggling. He stated that the long-term desire is a sustainable use.

Councilmember Feierbach stated that she recognized the concerns of the owner, but preferred box retail as a means to generate sales tax. Regarding the residential use, she stated the density should be similar to adjacent developments. She shared the concerns regarding the impact on school enrollment. She would like to see a cost analysis of housing versus retail.

Councilmember Bauer stated that he supports retail for this parcel, and recognizes the current constraints for the owner. He commented this change is a bold move, and would like to see an analysis as well.

Councilmember Mathewson noted that this parcel was surrounded by vacant properties, and suggested reassembling the properties to create a different mix. He noted this could be a project for the future Economic Development Director.

Councilmember Warden stated that he cannot support the proposed density, and does not support the housing proposal. He noted that Belmont needs the tax base, the Direct Access from Highway 101 will help, and the building is visible from the freeway.

Mayor Metropulos stated that he preferred mixed use.

Councilmember Feierbach stated that neighborhood outreach would be necessary, regardless of the use.

Discussion and Direction regarding expanded use of Channel 27

Information Technology Manager Harnish outlined the options available for the use of Channel 27 to provide information to local residents. She reviewed the costs associated with the options. She noted that web streaming Council meetings is a benefit to residents unable to access cable, but noted the high cost for maintenance and management. She noted this option could be exercised in fiscal year 2006 if funding were available. She noted that staff's recommendation was to implement the use of a static Bulletin Board system once the City Manager's office is fully staffed.

Information Technology Manager Harnish explained that the Bulletin Board system utilized Power Point, along with other content software, and that the sophistication was in the hardware.

Discussion ensued. Council concurred to review this issue in six months.

Discussion and direction regarding closed session legalities, investigative activities, and punitive measures

City Attorney Savaree reviewed the Brown Act provisions regarding closed sessions. She noted that amendments to the Brown Act in January of 2003 prohibit public disclosure of information discussed in closed sessions, and she reviewed the penalties for such disclosure. She outlined the process for the pursuit of punishment of a disclosure of information, including censure. She noted that current Council Protocols contain provisions for actions deemed inappropriate by members of the Council, and noted that investigation or pursuit of this matter could cost between \$200 and \$400 per hour in legal fees.

In response to Councilmember Warden, City Attorney Savaree confirmed that all members of the City Council received her memo outlining the January 2003 provisions at the time the new law was enacted.

Marianne Walsh-Cunningham, Malcolm Avenue, stated that the recent election was about morals, values, and integrity. She previously spoke before the Council when it took action to cancel last year's election, which resulted in two appointees to the Council. She stated that sanctions cost money. She noted the gentleman's agreement regarding the vice mayor rotation, and that Belmont politics was returning to the old style.

Shirley Cox-Northen, Malcolm Avenue, stated that in her 50 years in Belmont she has seen bad and good politics, and now it is bad again. She stated that Councilmember Bauer should be Mayor.

Rick Cunningham, Malcolm Avenue, stated that he is embarrassed and ashamed of the witch hunt. He noted that it is not necessary for Council to see eye-to-eye on all issues.

Councilmember Feierbach stated that this is not about the Mayor rotation. She noted that a Councilmember disclosed to the press information relative to an employee evaluation that had been discussed in closed session, which is an offense issue punishable by law. She stated that she could not feel safe again in a closed session. She noted this is not about personalities. She commented that this matter is too costly to pursue, but that if it happens again, she would pursue it.

Councilmember Warden stated that he believes in morals, values and integrity. He commented that the community could be damaged from closed session disclosure. He clarified that he does not like closed sessions, but recognized they are necessary in certain circumstances. He stated the disclosure created a liability issue for the City, but legal action would cost money, and he would prefer to spend the money on other things. He added that he is not being vindictive, and that the action to discuss this item took four votes, and it was important to the four. He agreed with Councilmember Feierbach regarding future pursuit.

Councilmember Mathewson agreed that he would pursue the matter if the situation happened again.

COMMISSION, COMMITTEE UPDATES, AND STAFF ITEMS

Harbor Industrial Area: Status Report

Curtis Williams, Consultant, outlined the issues still to be addressed, including traffic circulation, creek improvements, the sewer system, and political climate. He noted that there was a recent re-commitment from the City Council to reach mutual agreement regarding annexation. He clarified that the Council subcommittee is ready to discuss land use and other issues with the HIA, but the HIA voiced concerns regarding political stability, and wants to hold off on discussions for the time being. He noted that HIA has expressed the possibility of continuing discussions in early 2005.

Councilmember Feierbach stated that the HIA committee is willing to reconsider discussions when a new city manager is hired. She noted the discussions have been positive.

Councilmember Bauer stated that progress is being made.

MEETING EXTENSION: On a motion by Councilmember Warden, seconded by Councilmember Bauer, the meeting was unanimously extended by 30 minutes.

Discussion and Direction to San Juan Hills Subcommittee on Proposal by Scott Piazza

Community Development Director Ewing stated that a draft development agreement was presented to staff and the subcommittee in September. He noted that the recommendation of the subcommittee is to seek outside legal counsel for additional analysis before proceeding with additional discussions with the applicant.

Councilmember Feierbach, member of Subcommittee, stated that she has worked with development agreements in the past. She commented that all members of the Council should be provided with a copy of the draft agreement. She stated that a land-use attorney could review existing laws, and noted that Mr. Colantuono, Attorney, was familiar with the San Juan Plan since he was involved with the lot merger. She clarified that provisions in a development agreement would prevail if they conflicted with existing laws.

Councilmember Mathewson, member of Subcommittee, also recommended obtaining outside legal advice. He noted that issues in this development included road build-out, and the number and size of the units.

Bry Sarté, Sherwood Design Engineers, responded that these comments were unexpected. He noted that this process began 18 months ago, and that all the elements of the project were contained in the draft development agreement. He clarified that no feedback had been provided to them, and recommended the Council re-form the subcommittee to direct the applicant. He expressed concern that the Council was supportive of the project, and that the development agreement was produced at the direction of Council.

Mr. Sarté also noted that the previous Power Point presentation provided a detailed review of the project, including the trail system and proposed home locations. He noted that the development agreement captured the details. He stated that direction should have been given for this project to proceed via traditional route if a development agreement was not the desired method.

Councilmember Feierbach responded that the development agreement was proposed by the applicant, not Council, as a means to circumvent requirements. She added that a Power Point presentation is not the same as a development agreement. She noted that a land use expert was needed to analyze the agreement.

Deke Johnson, Lower Lock Avenue, stated that none of the neighbors on Lower Lock were invited to the meeting given by the applicant, and none has seen or been involved in discussions regarding the current plan. He commented regarding the receipt of threatening letters from the applicant regarding encroachment of portions of neighboring properties onto Mr. Piazza's property. He noted that Mr. Piazza approached the neighbors previously regarding the building of one house, not eight. He added that the lack of road access affects land price.

Councilmember Feierbach suggested that the City pay for the additional legal advice rather than the applicant. She noted that this information might assist with other future development projects in the San Juan Canyon. She said that any development in the Canyon should follow the provisions of the San Juan Plan.

Mayor Metropulos supported the expenditure if this information will help with this proposed development and any future Canyon projects. Councilmember Bauer agreed, and stated he would like to receive information regarding specifics of the concerns of the subcommittee. Councilmember Feierbach responded that this could be accomplished with the scheduling of a future study session.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Bauer, and unanimously approved by a show of hands for an allocation of up to \$5,000 from Council Contingency Fund for legal services.

Motion Appointing a Council Representative to Attend Countywide Special Park District Meetings

Parks and Recreation Director Mittelstadt reviewed the previous history and current re-creation of this district. He stated that the Parks and Recreation Commission had appointed a liaison to this committee, and Council representation was requested. He clarified this was a short-term assignment.

Councilmember Bauer expressed his desire for this assignment, and Council concurred to have him serve as the liaison.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of Planning Commission Review of Public Park Projects (Warden)

Councilmember Warden stated that there is value in having the Planning Commission review public park projects, since its members have expertise in landscaping and other issues. He clarified that he was not intending to infringe on the jurisdiction of the Parks and Recreation Commission, and that he would want them to continue to review projects. He stated that the goal is for better projects. He noted that the Planning Commission brought up this issue at a recent meeting, and were in favor.

Councilmember Feierbach stated that she supported having another set of eyes review these projects.

Mayor Metropulos expressed concern that this process would nit-pick the work of the Parks and Recreation Commission.

Parks and Recreation Director Mittelstadt stated that he supported this concept. He recommended the Planning Commission review and comment, but not make formal conditions, and that those comments could accompany the final Parks and Recreation Commission recommendation.

Community Development Director Ewing stated that protocols should be developed regarding the Planning Commission's authority. Parks and Recreation Director Mittelstadt stated that a threshold was needed for which projects the Planning Commission should review.

Council concurred to have staff develop protocols for Council's approval regarding future Planning Commission review of public park projects.

ADJOURNMENT at this time, being 11:00, this meeting was adjourned.

Terri Cook

Belmont City Clerk

Meeting Tape Recorded and Videotaped
Tape Number 594